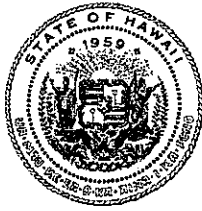


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the House Committee on  
FINANCE**

**Monday, February 27, 2012  
1:00 PM  
State Capitol, Conference Room 308**

**In consideration of  
HOUSE BILL 2653, HOUSE DRAFT 1  
RELATING TO TELECOMMUNICATIONS**

House Bill 2653, House Draft 1 proposes to exempt any actions relating to the installation, improvement, construction, upgrading, or development of wireless telecommunications service or telecommunications technology from county permitting and state approval and permitting requirements, including Hawaii Revised Statutes Chapter 171, Hawaii Revised Statutes (HRS), for five years. The Department of Land and Natural Resources (Department) offers the following concerns:

The Department has concerns with the broad exemption from all the requirements of Chapter 171, HRS. The bill is apparently applicable to work on both private and public lands. An exemption from Chapter 171, HRS, for the installation, improvement, construction, upgrading or development of new or existing broadband facilities could allow activities that might adversely impact other concurrent uses of the public lands where the existing easements or rights-of-way are situated or those of adjacent lands. More importantly, this broad exemption from Chapter 171, HRS, could be interpreted to allow the use of state lands without the approval or other disposition from the Department or Board of Land and Natural Resources, and allow the use of State lands for free. Since broadband infrastructure improvements would be proposed for-profit entities, then the State should receive its fair share for the use of state lands.<sup>1</sup>

Chapter 171, HRS, is not a permitting statute but a disposition chapter, which sets forth the processes for dispositions for the use of State lands, such as in the form of leases and easements. Compensation for these dispositions is also set forth in Chapter 171, HRS, at the fair market value for use of State lands. Therefore, the Department recommends references to Chapter 171, HRS, should be deleted from this bill.

<sup>1</sup> To the extent these lands involve public trust lands, then the Office of Hawaiian Affairs would be entitled to 20% of the proceeds received by the State.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
JADE BUTAY  
RANDY GRUNE  
JADINE URASAKI

IN REPLY REFER TO:

February 27, 2012

**H.B. 2653 H.D. 1  
RELATING TO TELECOMMUNICATIONS**

**HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS**

We support the intent of this House Bill 2653, House Draft 1 with concerns.

This bill proposes to extend the streamlined permitting for broadband technology under ACT 151, Session Laws of Hawaii to January 1, 2017. We would recommend adding the requirement that any work within the Highways Division right-of-way still requires the entity to obtain the Highway Permit under Section 264-6, HRS. This would provide the Highways Division to not only track the additional infrastructure in our right-of-way, but to also review the traffic control plans for the installation.

Thank you for the opportunity to provide testimony.





## LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: [henry.lifeoftheland@gmail.com](mailto:henry.lifeoftheland@gmail.com)

### COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

DATE: Monday, February 27, 2012

TIME: 1:00 P.M.

PLACE: Conference Room 308

BILL: **HB 2653 HD1 Telecommunications OPPOSE**

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 2653 HD1: *"From July 1, 2012, to June 30, 2017, actions relating to the installation, improvement, construction, upgrading, or development of existing wireless telecommunications facilities, including existing towers, structures, utility poles, network equipment, conduits and any infrastructure thereto, shall be exempt from county permitting requirements and state permitting and approval requirements including but not limited to the requirements of chapters 171, 205A, and 343, Hawaii Revised Statutes, except to the extent that the permitting or approval is required by federal law or is necessary to protect eligibility for federal funding, services, or other assistance."*

**Extending the reach of wireless telecommunications is great.**

**Giving government unlimited power to ram projects through without review or public involvement is dangerous.**

# Testimony before the House Committee On Finance

By Paul A. Nakagawa  
Superintendent, Planning Division  
Construction and Maintenance Department  
Hawaiian Electric Company, Inc.

Monday, February 27, 2012  
1:00 pm, Conference Room 308

House Bill 2653 HD1  
Relating to Telecommunications

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

My name is Paul Nakagawa and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

We support the deployment of high-speed broadband infrastructure in Hawaii, and the efforts of the Legislature and the Broadband Assistance Advisory Council (BAAC) to streamline the permitting process applicable to the State's broadband initiative. However we have strong concerns with this bill as written because this bill would exempt an entity taking action under this bill from complying with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of broadband infrastructure on state property. By no means is our intent to impede the process. Our intent is to ensure any entity complies with applicable engineering and safety standards when installing broadband infrastructure onto any new or existing facilities owned by HECO.

We therefore suggest the following amendments for your consideration:

1. In reference to pg. 3 of HB2653 HD1, SECTION 2 (a), starting from line 10, be revised to include and read "...*that the permitting or approval is required or **subject to applicable public utilities commission, state, county, and federal laws, rules, regulations, policies, orders, procedures, and guidelines, and joint pole and facility attachment agreements pertaining, but not limited, to safety, engineering, and reliability** or is necessary to protect eligibility for federal funding, services, or other assistance.*"

2. In reference to pg. 4 of HB2653 HD1, SECTION 3 (a), starting from line 4, be revised to include and read "...*facilities shall be issued in the aggregate within one hundred twenty days of receipt of a **completed** application relating to the siting of a new wireless telecommunications facility and full payment of any applicable fee.*"
3. In reference to pg. 5 of HB2653 HD1, SECTION 3 (b), starting from line 1, be revised to include and read "...*and full payment of any applicable fee. **Such approval, approval with modifications, or disapproval shall be made subject to applicable public utilities commission, state, county, and federal laws, rules, regulations, policies, orders, procedures, and guidelines, and joint pole and facility attachment agreements pertaining, but not limited, to safety, engineering, and reliability.***"

We appreciate the support of the Legislature and BAAC in hearing and understanding our concerns as we work together to address these issues.

Thank you for the opportunity to testify on this matter.

# Testimony before the House Committee On Finance

By Paul A. Nakagawa  
Superintendent, Planning Division  
Construction and Maintenance Department  
Hawaiian Electric Company, Inc.

Monday, February 27, 2012  
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We appreciate the support of the Legislature and BAAC in hearing and understanding our concerns as we work together to address these issues.

Thank you for the opportunity to testify on this matter.



Dan Youmans  
President – Washington/Hawaii  
External Affairs

AT&T Services, Inc.  
P.O. Box 97061  
RTC1  
Redmond, WA 98073-9761

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F: 425-580-8652  
daniel.youmans@att.com  
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February 27, 2012

The Honorable Rep. Marcus Oshiro  
Chair, Committee on Finance

*Re: Testimony SUPPORTING House Bill 2653 HD1  
Hearing before the House Committee on Finance  
2-27-2012, 1 p.m., Room 308*

Rep. Oshiro and Members of the Committee:

AT&T supports House Bill 2653 HD1, which would help facilitate the deployment of wireless broadband services in the State of Hawaii. This legislation is similar to a new law passed last year to provide a more streamlined approach to the local zoning and permitting processes for wireline broadband services. Because wireless broadband services are so highly valued by consumers today – especially the use of smart phones and pads – it only makes sense that streamlined processes are also available to wireless facilities.

Under this bill, broadband improvements to existing wireless facilities would be exempt from local permitting processes. Wireless carriers would still have to report these improvements to the Department of Commerce and Consumer Affairs. Since these improvements have minimal impact on the community, such as upgrading antennas and cabling, there should be a faster process for making these changes.

The bill also puts timelines on the deployment of new wireless broadband facilities. Local governments would still have zoning and permitting authority, but these timelines would ensure action on these requests in a reasonable amount of time.

We have arrived at a very exciting time in the wireless industry. Most carriers, including AT&T, are embarking on the deployment of new Long Term Evolution (LTE) technology in our networks. These speeds will be much faster than the current 3<sup>rd</sup> Generation technology. These network improvements will be most notable in the speed at which the hundreds of thousands of applications can run. From business operations to health care to public safety to education to entertainment, people are finding new and beneficial uses for their smart phones and pads. We want to deliver those great experiences with faster wireless broadband services.

AT&T continues to invest in Hawaii and to upgrade our network. In fact, over the period of 2009-2011, AT&T invested nearly \$100 million in its wireless and wireline networks, including adding new cell sites, faster fiber-optic connections, and greater capacity in our cell sites. We plan to continue investing in Hawaii, but would certainly benefit from a more streamlined approach to zoning and permitting decisions around our facilities.

Thank you for considering House Bill 2653 HD1.

Respectfully Submitted,

Dan Youmans, AT&T



Proud Sponsor of the U.S. Olympic Team

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 25, 2012 2:20 PM  
**To:** FINTestimony  
**Cc:** prentissc001@hawaii.rr.com  
**Subject:** Testimony for HB2653 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2653

Conference room: 308  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Charles Prentiss  
Organization: Kailua Neighborhood Board  
E-mail: [prentissc001@hawaii.rr.com](mailto:prentissc001@hawaii.rr.com)  
Submitted on: 2/25/2012

### **Comments:**

The Kailua Neighborhood Board adopted a motion to only support broadband antennas that are designed as stealth antennas, i.e. designed as a rock or tree, etc. so as to blend with surroundings. This is being done nationwide and in Hawaii. Please respect our environment and economy by opposing this bill unless it requires stealth designs. Thank you.

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 25, 2012 12:34 PM  
**To:** FINTestimony  
**Cc:** buck@tiki.net  
**Subject:** Testimony for HB2653 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2653

Conference room: 308  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Buck Joiner  
Organization: Individual  
E-mail: [buck@tiki.net](mailto:buck@tiki.net)  
Submitted on: 2/25/2012

### Comments:

HB2653\_HD1 I oppose the inclusion of "in the aggregate" time period of 120 days for the combined action of county and state. If the state takes 119 days, the county has one day to act. I am also concerned that this bill might preclude any environmental assessment. That is not acceptable.

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**ent:** Saturday, February 25, 2012 11:07 PM  
**To:** FINTestimony  
**Cc:** Kealii8@hotmail.com  
**Subject:** Testimony for HB2653 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2653

Conference room: 308  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Kealii Makekau  
Organization: Individual  
E-mail: [Kealii8@hotmail.com](mailto:Kealii8@hotmail.com)  
Submitted on: 2/25/2012

Comments: